IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No 3050 of 1995

For Approval and Signature:
HON'BLE MR. JUSTICE ANANT S DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BHADURBHAI GANDABHAI RAJPUT
Versus
PIPLI GRAM PANCHAYAT

Appearance:
1. Special Civil Application No. 3050 of 1995
MR DS VASAVADA for Petitioner No. 1
NOTICE SERVED for Respondent No. 1

CORAM : HON'BLE MR. JUSTICE ANANT S DAVE

Date of decision: 26/11/2004

ORAL JUDGEMENT

1. The grievance agitated in this writ petition under Article 227 of the Constitution of India is against an award passed by the Labour Court in Reference (LCA) No.294 of 1991, whereby, though the petitioner-workman was reinstated in service by the learned Presiding Officer, Labour Court, Surendranagar, by his order dated 21st December 1994, no back wages were granted to the petitioner-workman.

2. It is the case of the petitioner that, since 26th September 1967, the petitioner was appointed on the post of peon by Resolution No.6 of the General body of the Gram Panchayat, Pipli, Taluka: Dasar, and, since then,

without any break, the petitioner had performed his duties till the services of the petitioner came to an end by an order dated 18th July 1991. Thus, after about 14 years of service, the petitioner was terminated without following the due procedure of law. Though a representation was made to the respondent to reinstate the petitioner in service, no reply was given by the respondent. Therefore, the Assistant Labour Commissioner, Surendranagar, referred the dispute vide his order dated 4th December 1991.

3. The learned Presiding Officer, after recording the submission of the representative of the petitioner, and considering the stand taken by the respondent-Gram Panchayat, passed the impugned award. The respondent-Panchayat has mainly contended that the Panchayat had no source of income and it has employed some other employee in place of the petitioner. No further written statement was filed by the Panchayat. The learned Presiding Officer accepted the claim of the petitioner-workman and, after appreciating the evidence on record, held that the petitioner was performing his duties as peon since 1967 and the order of termination was passed without following requirement of Section 25-F of the Industrial Disputes Act, 1947 ('Act' for short) and, therefore, the said action was held to be illegal. It was further held that the respondent has not adduced any evidence - in writing or oral - to justify their action. However, it was found by the learned Presiding Officer that, in place of the petitioner, other employee was employed by the respondent-Panchayat and the duties performed by the petitioner-workman were performed by the said person and, therefore, it was also violative of Section 25-H of the Act. Further, the petitioner-workman, in his deposition, has admitted that the petitioner was getting Rs.200 to Rs.300 from other employment and, therefore, looking to the financial capacity of the respondent-Panchayat, the learned Presiding Officer has passed the order of reinstatement only, and no back wages were given to the petitioner-workman.

4. I have heard the learned advocates appearing for the parties. On perusal of reasons assigned by the learned Presiding Officer, Surendranagar, in the award dated 21st December 1994, in exercise of powers under Section 11A of the Act, it cannot be said that the impugned award is in any way unreasonable or illegal or not in consonance with the provisions of Section 11A of the Act and, therefore, in my view, no error is committed by the learned Presiding Officer. Therefore, this is not

a fit case which calls for an interference of this Court under Article 227 of the Constitution of India.

5. In the result, the petition fails and is rejected. Rule is discharged with no order as to costs.

(Anant S. Dave, J.)

(swamy)